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Letter dated 15 December 1989 from the Permanent Representative of Portugal to the United Nations addressed to the Secretary-General

Further to my letter of 28 November (A/45/57-S/21022), I have the honour to convey to you the text of a note handed to the Ministry for Foreign Affairs and Resources of Australia by the Chargé d'affaires of the Portuguese Embassy in Canberra:

"1. It was officially announced that the Ministers for Foreign Affairs of the Commonwealth of Australia and of the Republic of Indonesia signed, on 11 December 1989, a provisional agreement on the establishment of a 'zone of co-operation' in the maritime area existing between the non-self-governing territory of East Timor and northern Australia, known as the 'Timor Gap'.

"2. That agreement is designed to promote the joint exploration of the natural resources of that maritime area's continental shelf.

"3. The Portuguese authorities have consistently lodged diplomatic protests with the Government of Australia against the talks that, for some years, it has been holding together with the Government of Indonesia aiming, as has been publicly disclosed, at concluding the aforesaid agreement. This was the case with the protests lodged on 19 December 1985, on 9 September and 28 October 1988, and again on 30 October 1989, to which the Embassy has the honour to call once more the department's attention.

"4. In those protests the Portuguese Government pointed out that the negotiation and eventual conclusion of such an agreement with the Republic of Indonesia - a country that has invaded militarily the territory of East Timor and has persisted ever since with its illegal occupation, in defiance of the relevant resolutions of the Security Council and the General Assembly of the United Nations - would constitute a serious and blatant breach of international law.

"5. In proceeding with the signing of the above-mentioned agreement, Australia is continuing and bringing to its conclusion that violation of the law.

"6. The authority exercised by Indonesia over the territory of East Timor is illegitimate, being in disregard of the principle of the non-use of force in international relations and of the right to self-determination of the people of East Timor provided by the Charter of the United Nations and fundamental United Nations resolutions, and by international custom as well. That authority is not, therefore, recognized by the United Nations. Indonesia cannot thus be considered as being able to legitimately undertake any commitment whatsoever on behalf of the people and of the territory of East Timor.

"7. In signing the 'provisional agreement' Australia acts in contempt of its duties to respect the right of the East Timorese to self-determination, the territorial integrity of East Timor and the permanent sovereignty of that people over its natural resources which are, partially, the object of the agreement.

"8. Moreover, Australia disregards Portugal's capacity as the administering power of that non-self governing territory and the exercise of the rights and obligations inherent to that capacity, as recognized by the United Nations, which continues to keep the item 'Question of East Timor' inscribed on the agendas of its main bodies. Australia is thus further violating its obligations as a member of the international community and, in particular, those undertaken upon ratifying the Charter of the United Nations, of which Australia was one of the founding countries.

"9. Under the auspices of the Secretary-General, talks are now proceeding concerning the question of East Timor. The signing of this agreement interferes with and goes against the mediation efforts tirelessly and patiently exercised by the Secretary-General and aiming at reaching a comprehensive settlement for that question as provided for in General Assembly resolution 37/30 of 23 November 1982. In the light of the above, Portugal cannot but lodge its most vehement protest with the Government of the Commonwealth of Australia and state that it reserves the right to resort to any legal means it may deem appropriate to uphold the legitimate rights of the East Timorese."

I would like to inform you also that the Portuguese Ambassador in Canberra has been retained in Lisbon for consultations for an indeterminate period.

I would be grateful if you would kindly arrange for the present letter to be circulated as an official document of the forty-fifth session of the General Assembly, under the item entitled "Question of East Timor", and of the Security Council.

(Signed) Fernando REINO
Ambassador of Portugal
Permanent Representative
to the United Nations